

NOV 8 2001

DEPT. OF INSURANCE
BY CBSTATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:)

DAVID GARCIA)

Respondent.)

No. 01A-257 - INS

CONSENT ORDER

The State of Arizona Department of Insurance ("Department"), has received evidence that David Garcia ("Respondent") violated provisions of Title 20, Arizona Revised Statutes. Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. David Garcia ("Respondent") is, and was at all material times licensed to transact life and disability insurance as an agent, Arizona license number 91607, which license expires April 30, 2002.

2. On or about March 7, 2001, Respondent entered into an Agent Agreement to become an authorized agent for United Wisconsin Life Insurance Company ("United Wisconsin"). Under the terms of the contract, Respondent was authorized to solicit applications for health insurance, collect premiums and submit completed applications.

3. On or about April 25, 2001, Respondent met with a prospective applicant, Betty Purvis ("Purvis") and completed an application for health insurance to be underwritten by United Wisconsin. Purvis gave Respondent a personal check in the amount of \$238.88 in payment of the initial health insurance premium.

4. On June 19, 2001 at 2:19 p.m., Respondent faxed an Exclusion Rider to Purvis with a request that she sign the Rider and fax it back to him. Purvis did not sign the rider or accept the policy with the exclusion.

5. On June 22, 2001, Purvis called United Wisconsin to request a refund of her initial premium payment.

6. United Wisconsin initially declined to refund the premium. They stated that they had received a signed Exclusion Rider on June 18, 2001 at 6:10 p.m. and issued the policy with the rider. Purvis provided evidence that she did not sign the Exclusion Rider and United Wisconsin refunded the full premium payment on June 23, 2001.

7. On or about August 13, 2001, a Department investigator sent a request by first class mail to Respondent's business/residence address of record asking for his response and for copies of relevant documents. The letter was returned to the Department by the U. S. Post Office with a forwarding address for Respondent.

8. On August 21, 2001, the Department sent a request to Respondent at the forwarding address provided by the U.S. Post Office.

9. Respondent represented to the Department that Purvis' policy would lapse if the Exclusion Rider was not signed and returned to United Wisconsin. He further represented that Purvis was out-of-state at the time the Rider had to be signed and that he signed her name to the Rider so that her coverage would not lapse.

CONCLUSIONS OF LAW

1. The Director has jurisdiction over this matter.

2. Respondent's conduct constitutes the failure to inform the director in writing within thirty days of any change in the licensee's residential or business address, within the meaning of A.R.S. §20-286(C)(1).

3. Respondent's conduct constitutes a violation of any provision of this title or any rule, subpoena or order of the director, within the meaning of A.R.S. §20-295(A)(2).

4. Respondent's conduct constitutes forging another's name to any document related to an insurance transaction, within the meaning of A.R.S. §20-295(A)(10).

5. Grounds exist for the Director to suspend, revoke, or refuse to renew Respondent's insurance licenses, impose a civil penalty, and order restitution pursuant to A.R.S. §§20-295(A) and 20-295(F).

ORDER

IT IS HEREBY ORDERED THAT Respondent's license is revoked immediately upon entry of this Order.

DATED AND EFFECTIVE this 17 day of November, 2001.


CHARLES R. COHEN
Director of Insurance

CONSENT TO ORDER

1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and Order.

2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law and Order.

1 3. Respondent is aware of his right to notice and a hearing at which he may be represented
2 by counsel, present evidence and examine witnesses. Respondent irrevocably waives his right to such
3 notice and hearing and to any court appeals relating to this Consent Order.

4 4. Respondent states that no promise of any kind or nature whatsoever, except as expressly
5 contained in this Consent Order, was made to him to induce him to enter into this Consent Order and
6 that he has entered into this Consent Order voluntarily.

7 5. Respondent acknowledges that the acceptance of this Consent Order by the Director is
8 solely to settle this matter against him and does not preclude any other agency, officer, or subdivision
9 of this state from instituting civil or criminal proceedings as may be appropriate now or in the future.

10
11 10/25/01
Date

David Garcia
David Garcia,
License Number 91607

13 COPIES of the foregoing mailed/delivered
14 this 8th day of November, 2001, to:

15 David Garcia
2334 E. 5th Street
16 Tucson, AZ 85719

17 Fortis Insurance Company
P. O. Box 3050
18 Milwaukee, WI 53201-3050

19 United Wisconsin Life Insurance Company
P. O. Box 19032
20 3100 AMS Boulevard
Green Bay, WI 54307-9032
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1 Sara M. Begley, Deputy Director
Gerrie Marks, Executive Assistant for Regulatory Affairs
2 Mary Butterfield, Assistant Director
Catherine M. O'Neil, Consumer Legal Affairs Officer
3 Rebecca Sanchez, Insurance Licensing Administrator
Bob Hill, Investigator
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2910 North 44th Street, Suite 210
5 Phoenix, Arizona 85018

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7 Curvey Walters Burton
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